

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jessica Welker	Team: Team # 4	CCRB Case #: 201005914	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 05/01/2010 11:00 PM	Location of Incident: 46th Precinct station house	Precinct: 46	18 Mo. SOL 11/1/2011	EO SOL 11/1/2011	
Date/Time CV Reported Wed, 05/05/2010 8:59 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/05/2010 8:59 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Rafael Perdomo	21268	942338	046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Richard Urena	13975	940819	046 PCT
2. LT Michael Sullivan	00000	902447	046 PCT
3. SGT James Moore	02295	932939	046 DET

Officer(s)	Allegation	Investigator Recommendation
A.POM Rafael Perdomo	Force: PO Rafael Perdomo used physical force against § 87(2)(b)	

Case Summary

On May 5, 2010, § 87(2)(b) filed a complaint with the CCRB over the phone (encl. 3A-3B).

On May 1, 2010, at approximately 11:00 p.m. § 87(2)(b) was arrested and taken to the 46th Precinct stationhouse. The following allegation resulted:

- **Allegation A:** PO Rafael Perdomo used physical force against § 87(2)(b) § 87(2)(g)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)
§ 87(2)(b)

CCRB Statement

On May 11, 2010, the CCRB interviewed § 87(2)(b) (encl. 4A-4D). On May 1, 2010, at approximately 11:00 p.m. § 87(2)(b) was arrested at 50 West Burnside Avenue in the Bronx for assault. Two officers, identified by § 87(2)(b) as PO Rafael Perdomo and PO Richard Urena of the 46th Precinct, escorted § 87(2)(b) back to the 46th Precinct stationhouse. While standing at the front desk area in the stationhouse, § 87(2)(b) saw the woman he interacted with prior to his arrest. He began to speak to her and PO Urena and PO Perdomo told him not to say anything. PO Perdomo and PO Urena then escorted § 87(2)(b) to a bathroom near the cell area. PO Perdomo took off § 87(2)(b) right handcuff and § 87(2)(b) pulled his right arm away from PO Perdomo. PO Perdomo and PO Urena handcuffed § 87(2)(b) again. PO Urena held § 87(2)(b) arms while PO Perdomo punched him 10 to 15 times in the face. PO Perdomo punched him in the mouth, the left side and right side of the face, and the left neck area. § 87(2)(b) was bleeding in his mouth after he was punched. The officers left § 87(2)(b) locked in the bathroom. § 87(2)(b) became upset and began screaming. Officers then escorted § 87(2)(b) to an ambulance outside of the stationhouse. As he was walking to the ambulance, he was spitting the blood from his mouth into the garbage. He did not spit on officers. § 87(2)(b) was escorted to § 87(2)(b). § 87(2)(b) sustained swelling and contusions to his face as a result of the force that was used against him.

NYPD Statements:

Subject Officer: PO RAFAEL PERDOMO

- PO Perdomo is a § 87(2)(b)-old Hispanic male with brown hair. He is bald, 5'10" tall, and weighs 200 pounds.
- On May 1, 2010, PO Perdomo was scheduled to work anti-crime with PO Urena from 7:30 p.m. to 4:05 a.m. He was dressed in uniform and assigned to a marked vehicle.

Memo Book

PO Perdomo had the following memo book entries regarding this incident (encl. 5A-5B). "2230: pickup of 52 dispute 50 W. Burnside. 2300: one under with perp. 2303: deft while being uncuffed refused to take sneakers off and punched officer (myself) in the head with right closed

fist hitting officer in the head. Deft was removed to § 87(2)(b) while being removed, deft spit on officer Perdomo in the face and tried to spit at Lt. Sullivan.”

CCRB Statement

On August 20, 2010, the CCRB interviewed PO Rafael Perdomo of the 46th Precinct (encl. 5C-5D). On May 1, 2010, at approximately 11:00 p.m. PO Perdomo and PO Urena arrested § 87(2)(b) for assault at 50 West Burnside Avenue and then escorted him to the 46th Precinct stationhouse. Once they got to the stationhouse, § 87(2)(b) began to get upset at the front desk about being arrested. He started acting disorderly and continued to turn around and face PO Perdomo. PO Perdomo instructed § 87(2)(b) to turn around, which he refused to do. At that point, PO Perdomo took § 87(2)(b) to the back cell area to the bathroom to have him remove his shoelaces and belt to put him in the cell. § 87(2)(b) was kicking his legs and screaming as PO Perdomo took him to the bathroom. PO Urena was in the bathroom with § 87(2)(b). PO Perdomo instructed § 87(2)(b) to take off his belt and shoes. § 87(2)(b) said, “Fuck that, I am not doing shit.” PO Perdomo told § 87(2)(b) that if he did not remove his belt and shoelaces that the officers would have to do it. § 87(2)(b) continued to refuse to take off his shoelaces and belt. PO Perdomo stepped into the bathroom and at that point, § 87(2)(b) swung and punched him on the back left part of his head. PO Perdomo and PO Urena struggled to place § 87(2)(b) in handcuffs. PO Perdomo did not punch § 87(2)(b). PO Perdomo and PO Urena each had one of § 87(2)(b) arms, but he refused to put his hands behind his back. PO Perdomo and PO Urena did not use any other techniques to overcome his resistance. PO Perdomo dragged § 87(2)(b) out of the bathroom. During the struggle just outside of the bathroom, PO Perdomo and PO Urena fell on top of § 87(2)(b). § 87(2)(b) face hit the ground. While on the floor, § 87(2)(b) continued to resist by kicking the officers with his legs. PO Urena and PO Perdomo handcuffed § 87(2)(b) and took him to an ambulance outside of the stationhouse. § 87(2)(b) had a split lip that was bleeding. Once he was in the ambulance, he spit blood on the side of PO Perdomo’s neck and then § 87(2)(b) spit on Lt. Sullivan. PO Perdomo sustained a bump to the back of his head. He filled out a LOD incident report for the bump he sustained to the back of his head.

Witness Officer: PO RICHARD URENA

- PO Urena is a § 87(2)(b)-old Hispanic male with black hair and brown eyes. He is 5’6” tall and weighs 160 pounds.
- On May 1, 2010, PO Urena was scheduled to anti-crime with PO Perdomo from 8:30 p.m. to 5:05 a.m. He was dressed in uniform and assigned to a marked vehicle.

CCRB Statement

On August 12, 2010, the CCRB interviewed PO Richard Urena of the 46th Precinct (encl. 6A-6E). On May 1, 2010, at approximately 11:00 p.m., PO Urena and PO Perdomo arrested § 87(2)(b) and escorted him to the 46th Precinct stationhouse. § 87(2)(b) appeared to be intoxicated because he smelled like alcohol and his speech was slurred. Once at the stationhouse, PO Perdomo and PO Urena took § 87(2)(b) to the back bathroom near the cell area to search him before placing him in the cells. Once the officers took the handcuffs off of § 87(2)(b) to search him, he began cursing and yelling. He punched PO Perdomo in the neck. PO Urena and PO Perdomo then struggled to place § 87(2)(b) in handcuffs. He was flailing his hands and using profanity. PO Urena grabbed § 87(2)(b) left hand and placed it in a handcuff and then grabbed his right hand and placed it in a handcuff. He did not use any other techniques to overcome § 87(2)(b) s resistance. While PO Urena was struggling to place § 87(2)(b) in handcuffs, he was not in a position to see exactly what PO Perdomo was doing but he knew PO Perdomo was assisting him place § 87(2)(b) in handcuffs. PO Urena did not see PO Perdomo punch § 87(2)(b) in the

face in the bathroom or at any point in the stationhouse. After § 87(2)(b) was handcuffed, the officers left him in the bathroom with the door closed. Before the officers closed the bathroom door, PO Urena noticed that § 87(2)(b) had bruising on his face. He did not know how § 87(2)(b) sustained the bruising. He assumed that § 87(2)(b) hit the wall during the struggle in the bathroom because it is a confined space. The officers called EMS to respond to the scene and take § 87(2)(b) to the hospital because he was acting emotionally disturbed. After the officers closed the bathroom door, § 87(2)(b) began to hit his head against the bathroom door and kick the door. Once EMS arrived, PO Urena and PO Perdomo escorted § 87(2)(b) to the ambulance. § 87(2)(b) had blood on his lip, but PO Urena did not know how he sustained the injury. On the way to the ambulance, § 87(2)(b) spit blood on PO Perdomo.

Witness Officer: SERGEANT JAMES MOORE

- *Sergeant Moore is a § 87(2)(b)-old black male with black hair and brown eyes. He is 5'5" tall and weighs 175 pounds.*
- *On May 1, 2010, Sergeant Moore was scheduled to work as the desk officer at the 46th Precinct stationhouse from 11:05 p.m. to 7:50 a.m. He was dressed in uniform.*

CCRB Statement

On October 14, 2010, the CCRB interviewed Sergeant James Moore of the 46th Precinct (encl. 7A-7D). Sergeant Moore had no recollection of this incident on May 1, 2010. Sergeant Moore did not see PO Urena or PO Perdomo bring a prisoner into the stationhouse at the beginning of his tour although he acknowledged that he wrote the arrest stamp for § 87(2)(b) in the command log at 11:00 p.m. Sergeant Moore did not see PO Perdomo punch a prisoner in the stationhouse.

Witness Officer: LT. MICHAEL SULLIVAN

- *Lt. Sullivan is a § 87(2)(b)-old white male with brown hair and brown eyes. He is approximately 6'0" tall and 220 pounds.*
- *On May 1, 2010, Lt. Sullivan was scheduled to work as impact supervisor from 8:30 p.m. to 5:05 a.m. He was dressed in uniform and assigned to a marked vehicle.*

CCRB Statement

On December 2, 2010, the CCRB interviewed Lt. Michael Sullivan (encl. 8a-8E). On May 1, 2010, at approximately 11:15 p.m. Lt. Sullivan responded to 50 West Burnside Avenue to verify § 87(2)(b) arrest. Lt. Sullivan did not return to the stationhouse with PO Urena and PO Perdomo. He later responded to the 46th Precinct stationhouse because PO Perdomo and PO Urena reported that § 87(2)(b) was behaving violently. When Lt. Sullivan arrived at the stationhouse, § 87(2)(b) was in the back of an ambulance. Lt. Sullivan entered and PO Perdomo entered the ambulance and tried to put § 87(2)(b) seatbelt on. § 87(2)(b) lip was bleeding and he spit blood in PO Perdomo's face. He was acting irate and screaming in the ambulance. He also spit blood on Lt. Sullivan, but the blood landed on his shirt. A face mask was placed on § 87(2)(b) and he was taken to the hospital.

Medical Records

The ambulance call report for May 1, 2010, indicates that § 87(2)(b) had an abrasion to his face. His chief complaint was, "I was hit by the police." The report indicates that § 87(2)(b) was verbally abusive, agitated, and uncooperative. § 87(2)(b) spit at an officer and stated he would spit at other officers. A mask was placed on § 87(2)(b) to prevent him from spitting. § 87(2)(b) was taken to § 87(2)(b). Emergency room records reveal that § 87(2)(b) was

agitated and uncooperative. He stated that he was punched in the face. § 87(2)(b) was also fighting with police and spitting. Nurses sedated § 87(2)(b) due to his behavior. No additional notations were made about § 87(2)(b) medical condition. When he became alert, he was discharged to the police.

§ 87(2)(b) was a walk in patient at § 87(2)(b) on § 87(2)(b). § 87(2)(b) said that the police punched him in the face and he complained of pain. The general examination revealed swelling to the left side of the face and bruising to the right side of the face. X-rays revealed negative results for a fracture (encl. 9A-9Be).

NYPD Documents

OLBS

The OLBS for § 87(2)(b) indicates that he punched a female in the face. § 87(2)(b) was charged with § 87(2)(b) (encl. 10I).

Command Log

The command log indicates that § 87(2)(b) was intoxicated at 11:00 p.m. when he entered the 46th Precinct stationhouse. He was removed to § 87(2)(b) at 11:35 p.m (encl. 10P).

Arrest Photo

§ 87(2)(b) arrest photo depicts swelling to the left cheek (encl. 10A).

LOD Report

The line of duty incident report for PO Perdomo indicates he was punched with a closed fist on the back of his neck as he was attempting to place § 87(2)(b) in the holding cell. § 87(2)(b) also spit blood in PO Perdomo's face (encl. 10N).

Summons/Arrest for Incident and Disposition

- As of December 22, 2010, § 87(2)(b) case remains open regarding his arrest on May 1, 2010. The next scheduled court date is § 87(2)(b) (encl. 11A-11D).

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of December 22, 2010, with regard to the incident (encl. 13A).

Civilian Criminal History

- § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

- § 87(2)(b) [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

Civilian CCRB History

- § 87(2)(b) [REDACTED]
(encl. 2).

Subject Officer CCRB History

- PO Perdomo has been a member of the service for four years and there is one substantiated CCRB allegation against him. In CCRB case 200807227 PO Perdomo received charges for using a blunt instrument as a club (encl. 1A-1B).

Conclusion

Identification of Subject Officer

- § 87(2)(b) [REDACTED] identified PO Perdomo as the subject officer by his shield. PO Perdomo admitted to interacting with § 87(2)(b) [REDACTED] at the time of the alleged physical force. Allegation A was therefore pleaded against PO Perdomo.

Investigative Findings and Recommendations

Allegation A: PO Rafael Perdomo used physical force against § 87(2)(b) [REDACTED]

It is in dispute whether PO Perdomo used physical force against § 87(2)(b) [REDACTED]. According to § 87(2)(b) [REDACTED] he was in handcuffs and PO Urena held his arms while PO Perdomo punched him 10 to 15 times in the face. PO Perdomo punched him in the mouth, the left side and right side of the face, and the left neck area. § 87(2)(b) [REDACTED] did not admit to striking PO Perdomo, resisting being placed back in handcuffs, or spitting at officers. § 87(2)(b) [REDACTED] alleged that he was bleeding in his mouth as a result of the force used against him. He also alleged that he sustained swelling and contusions to his face as a result of the force that was used against him. The ambulance call report on May 1, 2010, indicated that § 87(2)(b) [REDACTED] had an abrasion to the face. His medical records on May 4, 2010, indicated that he had swelling to left face and bruising to the right cheek. He complained to medical personnel on May 1, 2010, and May 4, 2010, that he was punched in the

face by police. § 87(2)(g)

According to PO Urena and PO Perdomo, after they removed the handcuffs from § 87(2)(b) to search him, he punched PO Perdomo in the side of the head. A line of duty incident report corroborated PO Perdomo's statement that he was punched in the head. Both officers said that § 87(2)(b) resisted being placed back in handcuffs. PO Urena said that § 87(2)(b) was flailing his arms and refusing to put his arms behind his back. PO Urena acknowledged that § 87(2)(b) had bruising to his face after he was handcuffed, but he did not know how he sustained the injury. PO Perdomo denied punching § 87(2)(b) which was corroborated by PO Urena. According to PO Perdomo, during the struggle to cuff § 87(2)(b) PO Perdomo and PO Urena fell on top of § 87(2)(b) § 87(2)(b) face hit the ground. While on the floor, § 87(2)(b) continued to resist by kicking the officers with his legs. PO Urena and PO Perdomo handcuffed § 87(2)(b) and took him to an ambulance outside of the stationhouse. § 87(2)(b) spit blood on PO Perdomo and Lt. Sullivan. Sgt. Moore had no recollection of this incident. Lt. Sullivan was not present in the stationhouse, but confirmed that § 87(2)(b) was acting emotionally disturbed and that he spit blood at officers. The ambulance call report and medical records from § 87(2)(b) confirmed that § 87(2)(b) was acting emotionally disturbed and that he spit at officers.

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date